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The  
American Historical Review

THE COUNTY OF ILLINOIS

THE claims of Virginia to the territory beyond the river Ohio were greatly strengthened by the campaigns of General George Rogers Clark against the British posts on the Mississippi and the Wabash. Before these campaigns Virginia's title was based upon an interpretation of the royal charters. She now had whatever rights could accrue to her from the conquest of the lands in question. It was a most cogent argument in support of her pretensions that the British posts had been reduced by Virginian valor and that they were actually in the possession of Virginian troops. The legislature of that commonwealth was awake to the advantages of the situation, and in October, 1778, it enacted a law entitled "An act establishing the County of Illinois, and for the more effectual protection and defence thereof."<sup>1</sup> The preamble recited that "by a successful expedition carried on by the Virginia militia, on the western side of the Ohio river, several British posts within the territory of this commonwealth, in the country adjacent to the river Mississippi, have been reduced, and the inhabitants have acknowledged themselves citizens thereof, and taken the oath of fidelity to the same, and the good faith and safety of the commonwealth require that the said citizens should be supported and protected by speedy and effectual reinforcements, which will be the best means of preventing the inroads and depredations of the Indians upon the inhabitants to the westward of the Allegheny mountains." The preamble further stated that it was expedient to establish some temporary form of government adapted to the circumstances of the people west of the mountains, since it would be "difficult, if not impracticable, to govern them by the present laws of this commonwealth, until proper information, by intercourse with their fellow

<sup>1</sup> Hening, *Statutes at Large*, IX. 552-555.

citizens, on the east side of the Ohio, shall have familiarized them to the same.”<sup>1</sup> In order to provide a government suited to the peculiar condition of the inhabitants, the vast region beyond the Ohio which now comprises five great states was erected into a county called the “County of Illinois.” The governor of Virginia was empowered to appoint a county lieutenant or commandant-in-chief in the county, and he in turn was to appoint and commission as many deputy commandants, militia officers and commissaries as he should deem proper. In both cases the officers thus provided for were to hold their positions during the pleasure of the appointing power. Little was said about the powers and duties of the county lieutenant. In all criminal cases wherein the accused was convicted, the county lieutenant might grant a pardon, except in cases of murder and treason. In such cases he could cause execution to be postponed until the sense of the governor, in the case of murder, and of the General Assembly, in the case of treason, could be ascertained. He was required to convene the citizens in the various districts for the election of such civil officers as they had been accustomed to under the French-English régime prior to Clark’s expedition. Officers thus chosen were to be commissioned by the county lieutenant, and were to have the jurisdiction and powers exercised by them under the laws to which the inhabitants of the county had been accustomed. All civil officers were required to take the oath of fidelity to the commonwealth and the oath of office according to the form of their own religion ; and full civil and religious liberty was guaranteed to them and to all the inhabitants of the county. Such civil officers as the inhabitants had been accustomed to were to be paid for their services in the same manner as such expenses had formerly been borne ; but where any other officers were directed to be appointed by this act, the governor, with the advice of his council, was authorized to issue warrants on the treasury of the commonwealth for the payment of their salaries. The repeated references made to the laws to which the people had been accustomed are indicative of a desire on the part of the legislature to make the transition from one régime to another as easy as possible. By preserving local customs and local organs of government, and by introducing few new officials, it was hoped that the change could be accomplished with little disturbance.

For the protection and defence of the new county, the governor was authorized to raise and equip five hundred men, who should march at once to the Illinois country to garrison the forts and stations that had been taken. The governor was to meet the expenses

<sup>1</sup> Hening, IX. 553.

of this military occupation by drawing warrants upon the treasurer of the commonwealth.

The temporary character of this county organization was evident not only from the declaration to that effect in the preamble, but also from the fact that the act of establishment was expressly limited in its operation. It was to be in force "for and during the period of twelve months, and from thence to the end of the next session of assembly, and no longer."<sup>1</sup> In May, 1780, the act was continued "for one year after the passing of this act, and from thence to the end of the next session of assembly."<sup>2</sup> The statutory organization of Illinois expired therefore in 1781, and from that time until the passage of the Ordinance of 1787, there was no government resting upon positive provisions of law in the territory northwest of the river Ohio.<sup>3</sup>

Patrick Henry, then governor of Virginia, soon took the necessary steps for putting the new government into operation. On December 12, 1778, he appointed John Todd county lieutenant or commandant, and addressed to him a statesmanlike letter of instructions.<sup>4</sup> He said :

"The Grand Objects which are disclosed to the View of your countrymen will prove Beneficial or otherwise according to the Value and Abilities of those who are called to Direct the affairs of that remote Country. The present crisis rendered so favourable by the Good Disposition of the French and Indians may be Improv'd to Great purposes, but if unhapily it Should be lost, a returne of the Same attachments to us may never happen. Considering, therefore, that earley Prejudices are so hard to weare Out, you will Take Care to Cultivate and conciliate the affections of the French and Indians.

"Altho Great reliance is placed on your prudence in managing the people you are to reside among, yet consider'g you as unacquainted in some Degree with their Genius, usages, and maners, as well as the Geography of the Cuntry, I recommend it to you to consult and advise with the most inteligible and upright persons who may fall in your way.

"You are to give pertiklar Attention to Col<sup>o</sup> Clark and his Corps, to whome the State has Great Obligations. You are to cooperate with him on any military undertaking when necessary, and to Give the military every Aid which the circumstance of the people will admit of. the

<sup>1</sup> Hening, *Statutes at Large*, IX. 555.

<sup>2</sup> *Id.*, X. 303

<sup>3</sup> The ordinance for the government of the western territory adopted by Congress in 1784 was never put into operation.

<sup>4</sup> John Todd's Record Book, *Chicago Historical Society's Collections*, IV. 289-293. Governor Henry's letter has been reprinted several times, and with very considerable variations. It may be found in Edwards, *History of Illinois and Life of Ninian Edwards*, in English, *The Conquest of the Northwest*, and in Henry, *Patrick Henry*, III. 212-216. Of the copy in Todd's Record Book, Mr. E. G. Mason said that it "probably is in Patrick Henry's handwriting. At all events his own signature is subscribed thereto." The extracts from the letter given in this paper are reproduced with verbal and literal exactness as they appear in Todd's Record Book.

Inhabitants of the Illinois must not expect settled peace and safety while theirs and Our enemies have footing at Detroit and can Intercept or Stop the Trade of the Mississippi. If the English have not the Strength or Courage to come to war against us Themselves, there practice has been and Will be to hire the savages to commit murders and depredations. Illinois must expect to pay in these a large price for her freedom unless the English can be Expelled from Detroit. the means of Effecting this will not perhaps be found in your or Col<sup>o</sup> Clark's power, but the French inhabiting the neighbourhood of that place, it is presumed, may be brought to see it Done with indifference or perhaps Joyne in the Enterprize with pleasure. this is but conjecture. when you are on the Spot you and Col<sup>o</sup> Clark may Discover its fallacy or reality if the former appears, defence only is to be the Object. if the latter or a good prospect of it, I hope the Frenchmen and Indians at your Disposal will shew a Zeal for the affaire equal to the Benefits to be Derived from Establishing Liberty and permanent peace.

"One Great Good expected from Holding the Illinois is to overaw the Indians from warring on our Settlers on this side the Ohio. a close attention to the Disposition, carector, and movments of the Hostile Tribes is therefore necessary for you the forces and militia at Illinois by being placed on the back of them may inflict timely Chastisement on these enemies, whose Towns are an easy prey in absince of their Warriors.

"You perceive by these hints that something in the military line may be Expected from you so far as the Occasion calls for the assistance of the people composing the militia it will be necessary to cooperate with the Troops sent from here. and I know of no better Gen<sup>l</sup> Direction to Give than this, that you Consider yourself at the head of the Civill department, and as Such having the Comm<sup>d</sup> of the militia, who are not to be under the Comm<sup>d</sup> of the military untill ordered out by the Civil Authority, and to Act in conjunction with them.

"You are on all Accatons to inculcate on the people the Value of liberty and the Difference between the State of free Citizens of this Commonwealth and that Slavery to which the Illinois was Destined. A free and equal representation may be Expected by them in a little Time, together with all the improv<sup>ts</sup> in Jurisprudence and police which the Other parts of the State enjoy.

"It is necessary for the Hapiness, increase and prosperity of that Cuntrey that the Greaveances that obstruct these blessings be known in order to their removall, let it therefore be your Care to obtain information on that subject that proper plans may be formed for the Generall Utility. Let it be your Constant Attention to see that the inhabitants have Justice administred to them for any Injury rec<sup>d</sup> from the Troops, the omission of this may be fatal. Col<sup>o</sup> Clark has Instructions on this Head, and will, I Doubt not, exert himself to curb all licentious practises of the Soldiery, which if unrestrained would produce the most banefull effects.

"You will also Discountenance and punish every attempt to Violate the property of the Indians, perticularly in their lands. Our enemys have alarmed them much on that score, but I hope from your prudence and Justice that no grounds of Compl<sup>t</sup> will be administred on this Subject.

"You will embrace every oportunity to manifest the high regard and frendly sentiments of this Commonwealth towards all the Subjects of his Catholic Majesty, for whose safety, prosperity, and advantage [advancement] you will give every possible advantage. You will make a

Tender of the Friendship and Services of y<sup>r</sup> people to the Spanish Commandant neare Kaskaskia, and Cultivate the Strictest Connection with him and his people. I deliver you a letter which you will hand to him in person.

“The Ditaile of your Duty in the civil Department I need not give you, its best Direction will be found in y<sup>r</sup> innate love of Justice and Zeal, to be intencively usefull to your fellow-men. A general Direction to act according to the best of y<sup>r</sup> Judgment in cases where these Instructions are Silent and the laws have not Otherwise Directed is given to you from the necessity of the Case, for y<sup>r</sup> Great Distance from Govern<sup>t</sup> will not permit you to wait for Orders in many Cases of Great Importance.

“in your negotiations with the Indians confine the stipula<sup>n</sup> as much as possible to the single object of obtaining peace from them. Touch not the subject of land or bounderies till pertick<sup>t</sup> Orders are rec<sup>d</sup>; when necessity requ<sup>r</sup> it, presents may be made, but be as frugall in that matter as possible and let them know that Goods at present is Scarce with us, but we expect soon to Trade freely with all the world, and they shall not want when we can get them.

“The matters given you in Charge are Singular in their Nature and Weighty in their Consequences to the people imediately concerned and to the whole State. they require the fullest exertion of y<sup>r</sup> Abillitys and Unwearied Diligence . . . . .”

On the same day, Governor Henry addressed a letter to George Rogers Clark, directing him to retain the command of all the troops within the boundaries of the new county. As in the case of Todd, he was instructed to cultivate the good will of the French and Indians. He was especially cautioned to adopt severe discipline with his troops in order to prevent their doing any injury to the persons or property of the inhabitants. The letter continues, “John Todd, Esq., being appointed county lieutenant according to law during pleasure, with ample power chiefly confined to the civil department, will have directions to act in concert with you whenever it can be done. On your part you will omit no opportunity to give him the necessary co-operation of the troops when the case necessarily requires it. Much depends upon the mutual assistance you will occasionally afford each other in your respective departments, and I trust that a sincere cordiality will subsist between you—the contrary will prove highly detrimental.”<sup>1</sup>

Colonel Todd soon took his departure for the scene of his duties and arrived at Kaskaskia in May, 1779.<sup>2</sup> Prior to his arrival Colonel Clark had given some attention to civil affairs, but they were not to his taste and he gladly welcomed the coming of Todd.<sup>3</sup> The latter began at once to organize the government in accordance

<sup>1</sup> Draper Collection, Clark MSS., LX. 1-4; Henry's *Patrick Henry*, III. 209-212.

<sup>2</sup> Letter of George Rogers Clark to George Mason, Nov. 19, 1779, *Ohio Valley Historical Series*, III. 84. It is said that the French inhabitants greeted Todd with shouts of “Vive le roi!”

<sup>3</sup> *Id.*, III. 85.

with the instructions that he had received. On May 14 he organized the militia, appointing Richard Winston deputy commandant at Kaskaskia and issuing commissions to Nicholas Janis and Joseph Duplassey as captains of companies. On May 17 he appointed François Trottier to be deputy commandant at Cahokia, while Jean Bte. Barbeau was assigned to the same office at Prairie du Rocher.<sup>1</sup> In thus providing for the defense of his people against attacks from without before attempting to deal with purely civil affairs, Todd acted in accordance with the practice which must prevail in all such cases. The first need of a primitive community is for protection. In this instance the situation of the people was peculiarly hazardous. Their position on the frontier exposed them to attacks from the Indians surrounding them, as well as from the troops of the British, who were anxious to recover their lost fortresses. Hence the wisdom of the earliest possible organization of the militia.

Todd next turned his attention to civil affairs. In compliance with Governor Henry's instructions he assembled the people for the election of civil officers and especially for the choice of judges of the courts at Vincennes, Cahokia and Kaskaskia. This election marked a great change in the political organization of the people. Courts had existed in Illinois for some time, but they had administered the laws of a distant kingdom and the people had had no choice in the selection of the judges. This was undoubtedly the first election held in Illinois.<sup>2</sup> With but one exception all the officers chosen bore French names.<sup>3</sup> Several of those to whom Todd had given commissions in the militia were also elected to civil office. Among them were Richard Winston, deputy commandant at Kaskaskia, who was elected sheriff at Kaskaskia: and François Trottier, deputy commandant at Cahokia, who was elected a member of the court at that place. Four of the nine judges of the court of Kaskaskia, four of the seven judges of the court of Cahokia, and five of the nine judges of the court of Vincennes had already received military commissions from Colonel Todd. It has been suggested that the selection of persons already holding office was due to the lack of persons properly qualified to fill the places still remaining vacant.<sup>4</sup> This difficulty, which might easily occur in a frontier community, was not soon removed. More than fifteen years later Governor St. Clair complained that it was impossible to

<sup>1</sup> Todd's Record Book, *Chicago Historical Society's Collections*, IV. 294 seq.

<sup>2</sup> E. G. Mason in the *Magazine of American History*, VIII. 590.

<sup>3</sup> Lists of the officers elected are given in Todd's Record Book, *Chicago Historical Society's Collections*, IV. 295.

<sup>4</sup> Moses, *Illinois*, I. 160.

find persons in the Northwest Territory who were properly qualified for the office of judge.<sup>1</sup>

The inauguration of the new government was attended with many difficulties, two of which especially imperilled its success. The first was the sparseness of population in the vast area under Todd's jurisdiction. His authority extended from Pittsburg to the Mississippi—from the Ohio to the Great Lakes. Even in 1795, Governor St. Clair estimated the whole population of this region to be only fifteen thousand.<sup>2</sup> The country was too thinly settled to sustain any elaborate frame of government, and it was found almost impossible to carry out the simple provisions of that which had been established. The arm of the executive could not reach every part of the county, and as a result many isolated settlements were practically without any organized government.<sup>3</sup> The second difficulty in the way of the new government was the fact that the population was largely French. They were strangers to the governmental policy which was now established over them. They wished not so much to govern as to be governed. The forms of the common law, trial by jury, popular elections,—indeed, the idea that they themselves were to shape the fortunes of the new government—all these belonged to a polity to which they were unaccustomed, and were innovations which they received with little favor.

The civil department of the government of Illinois county consisted of two parts. The first was the executive, represented in the beginning by Colonel Todd; the second was the courts, which were elected by the people in accordance with Governor Henry's instructions. Todd seems to have entered with zeal upon the performance of his duties; but his path was not one of roses and he soon asked to be relieved of his office. In August, 1779, only three months after his arrival, he wrote to Governor Henry that he would resign the following spring. The unwholesome air, his distance from his connections, the unfamiliarity with the language, and the impossibility of procuring many of the conveniences of life combined to render his situation uncomfortable, and made him anxious to lay down his office.<sup>4</sup> And there were other things which made him

<sup>1</sup> *St. Clair Papers*, II. 348.

<sup>2</sup> Burnet, *Notes on the Early Settlement of the Northwestern Territory*, p. 31.

<sup>3</sup> The French settlements in Illinois seem to have been unable to devise any sort of government for themselves. In striking contrast is the political aptitude of the English, an excellent example of which is afforded by the people of Clarksville, a little settlement on the Ohio River, opposite Louisville, Kentucky. As Congress made no provision for their government, they held a convention and adopted a constitution. A year later they held another convention and amended their constitution. Both the constitution and the amendment are printed in the *AMERICAN HISTORICAL REVIEW*, II. 691.

<sup>4</sup> John Todd Papers, *Chicago Historical Society's Collections*, IV. 319.



dissatisfied with his position. His relations with Captain McCarty, the commander of the troops at Cahokia, were far from cordial. According to Todd, McCarty had endeavored to make the civil power subordinate to the military at Cahokia and had incurred the hatred of the inhabitants.<sup>1</sup> He was unable to maintain his authority, and the people told him that nobody had sent for him, that nobody wanted him, and threatened to drive him and his men away. As a result, most of his French soldiers deserted in the summer and fall of 1779.<sup>2</sup> McCarty attributed the unfriendly disposition of the inhabitants to Colonel Todd, and in a letter to Colonel Montgomery he said, "Col. Todd's residence here will spoil the people entirely, for the inhabitants no more regard us than a parcel of slaves. . . . I think it would be a happy thing could we get Col. Todd out of the country, for he will positively set the inhabitants and us by the ears. . . . I have never seen the people of this place so mutinous as they are by the encouragement of Col. Todd, for they even begin to threaten to turn my men out of doors, and God knows what I shall do if they do, for we are not above 20 strong and them sick that I could depend on so they may starve us if they like."<sup>3</sup> McCarty also wrote a sharp letter to Todd, accusing him of inciting the people to kill his hogs, which were running about in the open fields.<sup>4</sup> The exasperation aroused by the loss and destruction of his property embittered him against Todd and his government and made Todd's position even more uncomfortable than before.<sup>5</sup>

<sup>1</sup> *Calendar of Virginia State Papers*, I. 460.

<sup>2</sup> Letter from Capt. John Williams to General Clark, Sept. 25, 1779. Draper Collection, Clark MSS., XLIX., No. 73.

<sup>3</sup> Draper Collection, Clark MSS., XLIX., No. 71.

<sup>4</sup> *Id.*, XLIX., No. 72.

<sup>5</sup> A year later, October 14, 1780, McCarty wrote to Todd a humble letter of retraction, in which he said, "Sir, When shall I begin to appollagize for the Different light and Oppinion, I saw and had of You when hear last Year, and now. the Spirit of a free subject that you inculcated thro' your better knowledge of things was hid to me. In short, Honour requires of me to render You the Justice you deserve, and at the same time to inform you the reason of my altering my notions of things. I then thought the Troops hear would be duly supported by the State, and the Legal expence for them paid to the people Justly. I had thought the duty of an Officer who had any Command was to see Justice done his Soldiers, and that they had their Rights without wronging his Country. I then thought it was also his Duty to fore see and use all manner of oeconomie in Laying up Provisions for these Soldiers, to carry on any Operation that his superiours should judge expedient to order him on, without any regard to private interests whatever, but for the Good of the State he served. I then never Immagined that an Agent would be sent hear to Trade in connection with a Private Person to Purchase the Certificates from the people at such rates which must appear scandalous and Dishonorable to the State.

"To the contrary of all which I am now convinced by ocular Demonstration; in short we are become the Hated Beasts of a whole people by Pressing horses, Boats &c &c, Killing cattle &c &c, for which no valuable consideration is given; even many not a certificate, which is hear looked on as next to nothing.

"I have sent Col. Clarke, in an Extract from my Journal, the proceedings as far as I

Todd carried out the intention which he had expressed to Governor Henry, and resigned in 1780.<sup>1</sup> He removed to Kentucky and apparently did not visit Illinois again. He was probably succeeded by Thimothé Demunbrunt, a Frenchman who had served as a lieutenant under General Clark during Governor Hamilton's invasion of the Illinois country in 1778-79. There is considerable doubt as to the exact position which this officer held in the government. Governor St. Clair says that when Todd left Illinois, Demunbrunt was substituted for him.<sup>2</sup> Demunbrunt himself, in a petition which he addressed to the state of Virginia asking compensation for the presents which he had made to the Indians at Kaskaskia in order to preserve their neutrality, says that when Colonel Winston was appointed to the command of Illinois, the colonel had appointed him to be commandant of the village of Kaskaskia, and he had continued in that office until the arrival of Governor St. Clair.<sup>3</sup> His position therefore was not the same as that which Todd had held, although he performed many of the duties of county lieutenant.

The other department of the civil organization consisted of the courts. These bodies were established at Kaskaskia, Cahokia, and Vincennes. They consisted of a clerk, a sheriff, and a body of judges varying in number from six to nine. They must have possessed some executive powers in addition to their judicial functions, for Todd sought their concurrence and assistance in certain of his measures.<sup>4</sup> All the judges whose names appear in Todd's Record Book were French by birth or descent, and hence had not become ac-

know, of one Col: De la Balme, and his raising a Party to go Against Detroit, Not being a Commander I cannot say whether he has proper authority so to do or not. . . . The people have sent by him memorials to Congress or the French envoy at Philadelphia setting forth all the evils we have done. I think Government should be informed of this, as the people are now entirely allinated Agst us; he has told Indians, french Troops will be hear in the Spring. I have no right to find fault, or Blame my Supperiours, yet I have a right to see plain, and wish for the Credit of the State, that Government had Eyes to see hear as Plaine as I do."—*Virginia Calendar of State Papers*, I. 379.

<sup>1</sup> Thomas Jefferson, who succeeded Patrick Henry as governor of Virginia, expressed his regret at this step. "I am sorry you think of resigning your office in the Illinois. the withdrawing of our troops from thence will render the presence of a person of established authority more essential than ever. Your complaints concerning your allowance we think too well grounded, and will lay them before the Assembly in May, who we doubt not will remove them. the other objections, I am in hopes you can get over. It would give us much concern should any necessity oblige you to leave that Country at all, and more especially as early as you speak of." John Todd Papers, *Chicago Historical Society's Collections*, IV. 359.

<sup>2</sup> *St. Clair Papers*, II. 169; *American State Papers, Public Lands*, I. 19. A memorandum on the inside of the back cover of Todd's Record Book dated 1779 is signed, "Nous, Thimothé Demunbrunt, Lt. Comd't. Par interim, &c &c &c." A similar inscription appears on page 39 of the Record Book.

<sup>3</sup> *Calendar of Virginia State Papers*, V. 408.

<sup>4</sup> Todd's Record Book, *Chicago Historical Society's Collections*, IV. 298, 302

quainted by intercourse with the system of law which they were to administer. Such being the case, it is not surprising that they displayed little zeal in the execution of their office. When Todd returned from a visit to Vincennes in July, 1779, he found that the court of Kaskaskia had adjourned to a distant day, hoping thus to rid themselves of an unfamiliar system of law. Todd issued a sharp order to them to hold court at once on that very day, "any adjournment to the contrary notwithstanding."<sup>1</sup> For a number of months thereafter, the sessions of the court at Kaskaskia were probably held with some semblance of regularity. As late as 1787, the court convened almost every month, but its chief task seems to have been to meet and adjourn. Little business was done. From June 5, 1787, to February 15, 1788, but two cases were tried by the judges. At the session of January 15, 1788, the first trace of the jury system is found. On that day the court ordered that jurymen who came from Prairie du Rocher should each receive twenty-five livres, while those from Bellefontaine should have forty-five livres. At the same session a jury was selected for the trial of two cases then pending against one Thomas Green. It is a noticeable fact that while all the judges of the court are French, all the jurymen, as well as all the parties to the cases tried by them, bear English names.<sup>2</sup>

After Todd left the Illinois country, in the early part of 1780, the government became much demoralized. The statute of Virginia under which it was organized expired in 1781, but many of the civil officers, particularly the courts, continued to exercise some of their functions. Demunbrunt made grants of land without number. The courts also assumed this power and exercised it freely. They claimed to act by the authority of Todd, whom they styled the Grand Judge for the United States. But Todd was not

<sup>1</sup> Todd's Record Book, *Chicago Historical Society's Collections*, IV. 304.

<sup>2</sup> Todd's Record Book, *Chicago Historical Society's Collections*, IV. 308 *seq.* Todd's Record Book shows that sessions of the court at Kaskaskia were held as follows :

June 5, 1787, adjourned to July 5, 1787.

July 25, 1787, " " August 22, 1787.

September 27, 1787, adjourned to October 15, 1787.

October 15, 1787, adjourned to November 15, 1787.

October 25, 1787, extra session, by request of Demunbrunt and François Carbonaux.

November 15, 1787.

November 16, 1787, adjourned to November 21, 1787.

November 24, 1787, " " December 20, 1787.

November 26, 1787, extra session, by request of "Mr. hugt hunard."

December 11, 1787, extra session, same case.

December 20, 1787, adjourned to December 28, 1787.

December 28, 1787, " " January 15, 1788.

January 15, 1788, " " February 15, 1788.

February 15, 1788, court was adjourned until a public assembly should be held.

empowered to make such grants himself, and it is not probable that he attempted to delegate any such authority to the courts. All these grants were afterwards disallowed by Governor St. Clair, but he recommended that persons who had actually settled upon such lands and made improvements thereon be given a right of preemption.<sup>1</sup>

In October, 1780, Richard Winston, sheriff and commandant at Kaskaskia, wrote to Todd that the military forces were trying to bring the entire government under their control and throw off the civil authority. The home government had of late manifested little interest in Illinois affairs, and Winston concludes in a discouraged tone, "The generality of the people are of the opinion that this country will be given up to France."<sup>2</sup> The situation did not improve. In 1783, the commissioners of the state of Virginia reported to the governor that the Illinois country was in great confusion for the lack of some one with authority to enforce order. The French inhabitants were not well inclined toward Virginia, and the neighboring Indians, who had hitherto been friendly, or at least neutral, were going over to the British. The commissioners finally gave it as their opinion that Virginia must speedily take coercive measures if she expected to retain control of the region.<sup>3</sup> In the same year Walker Daniel, in a statement dated "New Holland, Feb. 3, 1783," addressed to the Board of Commissioners for the Western Department, said that Mons. Carboneaux, the prothonotary and notary public for the Illinois settlements, had come on a mission to represent the condition of the Illinois country and to obtain some measure of relief. Carboneaux reported that the settlements were wholly without law or government, and that the magistrates, whether from indolence or from sinister motives, had for some time been so remiss in the administration of their office that they had now lost all authority. The greatest disorder prevailed. The most flagrant crimes were committed with impunity. A man might be murdered in his own house and the criminal go unpunished, since the settlements possessed neither sheriff nor prisons. In the midst of this confusion, many persons had made large purchases of land, amounting in some cases to three and four hundred leagues, with the intention of establishing themselves as lords of the soil, as had been done in Canada. Carboneaux suggested that a new officer, whom he calls the President of Judicature, should be sent to the settlements. This officer should be vested with wide executive

<sup>1</sup> *St. Clair Papers*, II. 196; *American State Papers, Public Land*, I. 19.

<sup>2</sup> *Calendar of Virginia State Papers*, I. 381. As to relations with France, compare with Captain McCarty's letter, *ante*, p. 630, note 5.

<sup>3</sup> Draper Collection, Clark MSS., LX., Illinois Papers, No. 3, 52-3.

power, and in every village there should be subordinate civil officers with authority to decide all causes upon obligation not exceeding three hundred dollars. For higher amounts there should be at Kaskaskia a court composed of the president and a majority of the magistrates. He admitted that there was no man in the Illinois country of sufficient ability and influence to fill the office of president, and hence some one would have to be sent from Virginia. Carboneaux also thought that a company of regulars should be put under the command of the president for a year or two in order to maintain order and authority.<sup>1</sup> In spite of the urgency of the case as depicted by Carboneaux, the government of Virginia seems to have taken no action.<sup>2</sup>

Although the state of Virginia had organized the whole country northwest of the River Ohio into a county under her jurisdiction, large parts of it were claimed by other states. But between the years 1781 and 1786, as a result chiefly of the attitude taken by Maryland toward the ratification of the Articles of Confederation, all these claims were ceded to the United States,<sup>3</sup> and it was to Congress, therefore, that the people of Kaskaskia, in the summer of 1786, addressed a petition to be provided with a government. To this the reply was made that a plan for their temporary government was under consideration and would be delayed no longer than was necessary.<sup>4</sup> In the following year, General Harmar visited the settlements, and reported to the Secretary of War that "all these people are entirely unacquainted with what Americans call liberty. Trial by jury, etc., they are strangers to. A commandant with a few troops to give them orders is the best form of government for them; it is what they have been accustomed to."<sup>5</sup>

Although the County of Illinois embraced within its limits all

<sup>1</sup> Draper Collection, Clark MSS., LX., Illinois Papers, No. 3, 1-4. Mons. Carboneaux "appears to have been instructed as to the ground of his message by the better disposed parts of the inhabitants of the country whose complaints he represents." *Ibid.*

<sup>2</sup> Carboneaux afterward carried his petition to Congress and on February 21, 1785, Congress resolved "That one or more commissioners be appointed to repair to the Kaskaskies and Illinois settlements," and the following Thursday was assigned for the election of one commissioner. *Journals of Congress*, IV. 473. Neither the *Journals* nor the *Secret Journals* of Congress contain any further reference to the election of these commissioners. On March 4, 1785, Congress resolved "That 300 dollars be advanced to Francis Carboneaux, agent for the inhabitants of the Kaskaskies and St. Vincents, for which sum he is to be accountable; and that the president draw a warrant accordingly." *Journals of Congress*, IV. 477.

<sup>3</sup> But Connecticut did not cede her jurisdiction over the Western Reserve until 1800.

<sup>4</sup> *Journals of Congress*, IV. 688.

<sup>5</sup> *St. Clair Papers*, II. 32. As early as September 25, 1779, Captain John Williams had expressed a similar opinion in a letter to General Clark. He said the people were very discontented, and he added in an explanatory tone, "The civil law has ruined them." Draper Collection, Clark MSS., XLIX., No. 73.

the lands beyond the Ohio to which Virginia laid claim, the actual authority of the government of the county never extended beyond the French settlements along the Mississippi and the Wabash. And later when the western lands were ceded to the United States and the government under the Ordinance of 1787 was organized, it was some time before any effects of the change were seen in the old French towns. Governor St. Clair inaugurated the government of the Northwest Territory at Marietta, July 15, 1788. The governor and judges, acting as the territorial legislature, immediately began the enactment of legislation which, in so far as it was of a general nature, applied equally to all parts of the territory. But the measures adopted by the government of St. Clair, like those adopted by the government of Todd, were effective only in the group of settlements in which the executive resided. The acts of the legislature at Marietta had no effect on the Mississippi. Whatever government existed in the French settlements was simply a survival of the Virginia county ; and this government, which was never very efficient, grew constantly worse. Todd had made a conscientious effort to establish political institutions according to the ideas of government which prevailed east of the Alleghenies. But the indifference and political incapacity of the French, joined with the inherent difficulties of the situation, defeated his efforts. Demunbrunt's chief activity seems to have been the making of grants of lands. Of actual government there was very little. The county was happily characterized by Governor Reynolds as "a kind of obsolete existence." Legally it ceased to exist in 1781 ; but some of its forms were kept up until April 27, 1790, when Governor St. Clair organized a part of it into a new county which he called St. Clair County. All semblance of government under the authority of Virginia then came to an end in the Northwest.

CARL EVANS BOYD.